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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,561	09/08/2005	Rejean Boyer	DC5051USPCT	2692

7590 01/21/2009  
Linda D Birch  
E I Du Pont De Nemours and Company  
Legal Patent Records Center  
4417 Lancaster Pike  
Wilmington, DE 19805

EXAMINER
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CHANDLER, SARA M

ART UNIT	PAPER NUMBER
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3693

MAIL DATE	DELIVERY MODE
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01/21/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/517,561	BOYER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SARA CHANDLER	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12/07/04.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-83 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 1-13 and 50-62, drawn to for an information retrieval system coupled to at least one commodity analysis system configured to analyze at least one commodity to generate commodity data comprising at least one commodity characteristic, a method/computer program product for managing the commodity data for a chain of production in which one or more commodities are used in one or more production steps.

Group 2, claim(s) 14-29 and 63-78, drawn to a method/computer program product for managing commodity data for a chain of production in which one or more commodities are used in one or b more process steps.

Group 3, claim(s) 30-34 and 79-83, drawn to for an information retrieval system coupled to a commodity analysis system configured to analyze at least one commodity to generate commodity data for a chain of production in which one or more commodities are used in one or more process steps, a method/computer program product for managing the commodity analysis system.

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Group 4, claim(s) 35-49, drawn to a computer system for managing commodity data for a chain of production in which one or more commodities are used in one or more process steps.

. The inventions listed as Groups 1-4 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Unity of invention exists when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding technical features. Lack of unity may be demonstrated *a priori*, before consideration of the prior art in relation to the claims. Lack of unity *a priori* occurs when there are no technical feature(s) that are common to all the claims. Lack of unity may also be demonstrated *a posteriori*, after consideration of the prior art in relation to the claims. Lack of unity *a posteriori* occurs when the claims have common technical feature(s) however, these features do not represent applicant's contribution over the prior art. **See also MPEP § 1850, II.**

**Determination of “Unity of Invention”; and MPEP § 1893.03(d).**

### **37 CFR 1.499. Unity of invention during the national stage**

If the examiner finds that a national stage application lacks unity of invention under § 1.475, the examiner may in an Office action require that the applicant in the response to that action elect the invention to which the claims shall be restricted. Such requirement may be made before any action on the merits but may be made at any time before the final action at the discretion of the examiner. MPEP § 1893.03(d).

**Groups 1-4** lack unity of invention *a priori* because there are no technical feature(s) that are common to all of the claims

**Regarding groups 1 and 2; 1 and 3; and 1 and 4:** Group 1 comprises technical features such as storing the commodity, data to the information retrieval system; and determining commodity information in accordance with the contents of the information retrieval system. None of the technical features are common to or shared with the technical features found in Groups 2,3 and 4.

**Regarding Groups 2 and 3; 2 and 4:** Group 2 comprises technical features such as generating commodity data for a plurality of discrete quantities of at least one commodity used or produced by the chain of production, the commodity data comprising at least one commodity characteristic produced by analyzing the particular discrete quantity using a commodity analysis system; and transmitting the commodity data for storing to an information retrieval system configured for receiving commodity data from a plurality of commodity analysis systems. None of the technical features are common to or shared with the technical features found in Groups 1,2 and 4.

**Regarding Groups 3 and 4:** Group 3 comprises technical features such as tracking a use of the commodity analysis system. None of the technical features are common to or shared with the technical features found in Groups 1,2 and 4.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action lack unity of invention for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their

- different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined** even though the requirement may be traversed **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these

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claims are readable upon the elected invention.

Should applicant traverse, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during

prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

The examiner has not contacted the applicant for election over telephone due to the complex nature of the election/restriction requirement (see MPEP §812.01 (R-3)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARA CHANDLER whose telephone number is (571)272-1186. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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Primary Examiner, Art Unit 3693